

for those vessels that will arrive in the United States more than 24 hours after sailing from that foreign port; or

(B) No later than the presentation of the permit to unlade (Customs Form (CF) 3171, or electronic equivalent), for those vessels that will arrive less than 24 hours after sailing from the foreign port of lading); and

(xvi) Time of departure from foreign, as reflected in the vessel log (see § 4.7a(c)(4)(xv) for the applicable foreign port and the time frame within which this data element must be reported to CBP).

(d) *Crew List.* The Crew List shall be completed in accordance with the requirements of the Immigration and Naturalization Service, United States Department of Justice (8 CFR part 251).

(e) *Passenger List.* (1) The Passenger List shall be completed in accordance with § 4.50 and with the requirements of the Immigration and Naturalization Service, U.S. Department of Justice (8 CFR part 231), and the following certification shall be placed on its last page:

I certify that Customs baggage declaration requirements have been made known to incoming passengers; that any required Customs baggage declarations have been or will simultaneously herewith be filed as required by law and regulation with the proper Customs officer; and that the responsibilities devolving upon this vessel in connection therewith, if any, have been or will be discharged as required by law or regulation before the proper Customs officer. I further certify that there are no steerage passengers on board this vessel (46 U.S.C. 151-163).

Master

(2) If the vessel is carrying steerage passengers, the reference to steerage passengers shall be deleted from the certification, and the master shall comply with the requirements of § 4.50.

(3) If there are no steerage passengers aboard upon arrival, the listing of the passengers may be in the form of a vessel "souvenir passenger list," or similar list, in which the names of the passengers are listed alphabetically and to which the certificate referred to in paragraph (e)(1) of this section is attached.

(4) All baggage on board a vessel not accompanying a passenger and the

marks or addresses thereof shall be listed on the last sheet of the passenger list under the caption "Unaccompanied baggage."

(f) *Failure to provide manifest information; penalties/liquidated damages.* Any master who fails to provide manifest information as required by this section, or who presents or transmits electronically any document required by this section that is forged, altered or false, may be liable for civil penalties as provided under 19 U.S.C. 1436, in addition to penalties applicable under other provisions of law. In addition, if any non-vessel operating common carrier (NVOCC) as defined in § 4.7(b)(3)(ii) elects to transmit cargo manifest information to Customs electronically, and fails to do so as required by this section, or transmits electronically any document required by this section that is forged, altered or false, such NVOCC may be liable for liquidated damages as provided in § 113.64(c) of this chapter, in addition to other penalties applicable under other provisions of law.

[T.D. 71-169, 36 FR 12602, July 2, 1971, as amended by T.D. 73-27, 38 FR 2448, Jan. 26, 1973; T.D. 77-255, 42 FR 56320, Oct. 25, 1977; T.D. 79-31, 44 FR 5649, Jan. 29, 1979; T.D. 85-123, 50 FR 29952, July 23, 1985; T.D. 89-58, 54 FR 20381, May 11, 1989; T.D. 93-66, 58 FR 44130, Aug. 19, 1993; T.D. 95-77, 60 FR 50010, Sept. 27, 1995; T.D. 98-74, 63 FR 51287, Sept. 25, 1998; T.D. 02-62, 67 FR 66332, Oct. 31, 2002; CBP Dec. 03-32, 68 FR 68169, Dec. 5, 2003]

§ 4.8 Preliminary entry.

(a) *Generally.* Preliminary entry allows a U.S. or foreign vessel arriving under circumstances that require it to formally enter, to commence lading and unlading operations prior to making formal entry. Preliminary entry may be accomplished electronically pursuant to an authorized electronic data interchange system, or by any other means of communication approved by the Customs Service.

(b) *Requirements and conditions.* Preliminary entry must be made in compliance with § 4.30, and may be granted prior to, at, or subsequent to arrival of the vessel. The granting of preliminary

vessel entry by Customs at or subsequent to arrival of the vessel, is conditioned upon the presentation to and acceptance by Customs of all forms, electronically or otherwise, comprising a complete manifest as provided in §4.7, except that the Cargo Declaration, Customs Form (CF) 1302, must be presented to Customs electronically in the manner provided in §4.7(b)(2). Vessels seeking preliminary entry in advance of arrival must do so: By presenting to Customs the electronic equivalent of a complete Customs Form 1302 (Cargo Declaration), in the manner provided in §4.7(b), showing all cargo on board the vessel; and by presenting Customs Form 3171 electronically no less than 48 hours prior to vessel arrival. The CF 3171 will also serve as notice of intended date of arrival. The port director may allow for the presentation of the CF 1302 and CF 3171 less than 48 hours prior to arrival in order to grant advanced preliminary entry if a vessel voyage takes less than 48 hours to complete from the last foreign port to the first U.S. port, or if other reasonable circumstances warrant. Preliminary entry granted in advance of arrival will become effective upon arrival at the port granting preliminary entry. Additionally, Customs must receive confirmation of a vessel's estimated time of arrival in a manner acceptable to the port director.

[T.D. 00–4, 65 FR 2872, Jan. 19, 2000, as amended by T.D. 02–62, 67 FR 66332, Oct. 31, 2002]

§4.9 Formal entry.

(a) *General.* Section 4.3 provides which vessels are subject to formal entry and where and when entry must be made. The formal entry of an American vessel is governed by section 434, Tariff Act of 1930 (19 U.S.C. 1434). The term “American vessel” means a vessel of the United States (see §4.0(b)) as well as, when arriving by sea, a vessel entitled to be documented except for its size (see §4.0(c)). The formal entry of a foreign vessel arriving within the limits of any Customs port is also governed by section 434, Tariff Act of 1930 (19 U.S.C. 1434). Alternatively, information necessary for formal entry may be transmitted electronically pursuant to a system authorized by Customs.

(b) *Procedures for American vessels.* Under certain circumstances, American vessels arriving in ports of the United States directly from other United States ports must make entry. Entry of such vessels is required when they have merchandise aboard which is being transported in-bond, or when they have unentered foreign merchandise aboard. For the purposes of the vessel entry requirements, merchandise transported in-bond does not include bonded ship's stores or supplies. While American vessels transporting unentered foreign merchandise must fully comply with the usual formal entry procedures, American vessels carrying no unentered foreign merchandise but which have in-bond merchandise aboard may satisfy vessel entry requirements by making a required report of arrival, and presenting a completed Customs Form 1300 (Vessel Entrance or Clearance Statement). Report of arrival as provided in §4.2 of this part, together with presenting a completed Customs Form 1300 (Vessel Entrance or Clearance Statement), satisfies all entry requirements for the subject vessels.

(c) *Delivery of foreign vessel document.* The master of any foreign vessel will exhibit the vessel's document to the port director on or before the entry of the vessel. After the net tonnage has been noted, the document may be delivered to the consul of the nation to which such vessel belongs, in which event the vessel master will certify to the port director the fact of such delivery (see section 434, Tariff Act of 1930, as amended (19 U.S.C. 1434), as applied through section 438, Tariff Act of 1930, as amended (19 U.S.C. 1438)). If not delivered to the consul, the document will be deposited in the customhouse. Whether delivered to the foreign consul or deposited at the customhouse, the document will not be delivered to the master of the foreign vessel until clearance is granted under §4.61. It will not be lawful for any foreign consul to deliver to the master of any foreign vessel the register, or document in lieu thereof, deposited with him in accordance with the provisions of 19 U.S.C. 1434 until such master will produce to him a clearance in due form from the director of the port where such vessel